tified that he was able to tell whether an engine had the steam shut off was not incompetent, as a matter of law, to testify as an expert whether a locomotive observed by him had cut off its steam.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. § 2350; Dec. Dig. § 539½ (1).* 5 Va.-W. Va. Enc. Dig. 777.]

2. Trial (§ 140 (1)*)—Questions for Jury—Credibility of Expert Witness.—Where no objection was made to a witness' testimony because of his alleged incompetency as an expert, the credibility and weight to be given his testimony was solely for the jury.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 334; Dec. Dig. § 140 (1).* 5 Va.-W. Va. Enc. Dig. 788.]

3. Railroads (§ 348 (1)*)—Crossing Accident—Sufficiency of Evidence.—Evidence held to sustain a verdict for plaintiff on theory that defendant railway company did not promptly endeavor to stop one or both engines on its "double-header" train after discovering plaintiff's automobile stalled on its track at a crossing.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1138, 1140, 1141; Dec. Dig. § 348 (1).* 4 Va.-W. Va. Enc. Dig. 129.]

Error to Circuit Court, Rockbridge County.

Action by Hunter's administrator against the Chesapeake & Ohio Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

J. M. Perry, of Staunton, for plaintiff in error.

Curry & Curry and *Timberlake & Nelson*, all of Staunton, for defendant in error.

CARY *v.* HOLT'S EX'RS et al.

Jan. 11, 1917.

[91 S. E. 188.]

1. Contracts (§ 164*)—Construction—Reference to Other Contracts.—Where defendant sold a portion of his right under contracts whereby he was to furnish a part of the capital necessary in transaction of the business of a corporation formed to purchase coal lands, for which he was to receive common stock, and the sale contract expressly referred to the prior contracts, it must be construed with such contracts.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 746-748; Dec. Dig. § 164.* 3 Va.-W. Va. Enc. Dig. 401.]

2. Corporations (§ 77*)—Contract of Promoters—Construction.—Where defendant's contract to furnish three-fourths of the capital necessary in the transaction of the business of a corporation for which he was to receive stock provided that all expenses incident to the successful carrying out of the purposes of the corporation were

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

to be borne by the corporation, he was obligated to pay its proportion of the amount needed to defray all expenses incident to the successful carrying out of the purposes of the corporation, including his salary as president of the corporation and for this he was entitled to stock.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 210-212, 219-243, 455; Dec. Dig. § 77.* 3 Va.-W. Va. Enc. Dig. 532.]

3. Corporations (§ 25*)—Contracts of Promoters—Assignment—Agreement to Furnish Capital—Salary.—Where plaintiffs when purchasing an interest in such contracts knew of all the provisions thereof and of salary expense of the corporation, and that by resolution of the board of directors the corporation had allowed defendant as president a salary, they were charged with notice of defendant's rights.

[Ed. Note.—For other cases, see Corporations Cent. Dig. § 194; Dec. Dig. § 85.* 3 Va.-W. Va. Enc. Dig. 532.]

4. Corporations (§ 425 (2)*)—Estoppel—Stockholders Objecting to Acts Done by Them as Directors.—Where the salary paid defendant subsequent to the sale contract was approved by the purchasers as directors, they cannot object that such resolution was not made at a stockholders' meeting in compliance with a pooling agreement made on the same date as the sale contract which continued defendant's salary for one year to be voted on at a stockholders' meeting at the end of such term.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. § 1698; Dec. Dig. § 425 (2).* 3 Va.-W. Va. Enc. Dig. 567.]

5. Estoppel (§ 83 (5)*)—Grounds.—Letters written by the defendant to the purchasers in which he stated the amount of liabilities of the corporation, without mentioning the expense for his own salary, but in which he requested the purchasers to come and look into everything for themselves, could not operate as an estoppel against the defendant on his claim that such salary item should be computed in calculating his input under the sale contract.

[Ed. Note.—For other cases, see Estoppel, Cent. Dig. §§ 218, 227, 228; Dec. Dig. § 83 (5).* 5 Va.-W. Va. Enc. Dig. 230.]

6. Corporations (§ 85*)—Contract to Furnish Capital—Construction.—The salary expense, having been treated by the corporation as a necessary expense attendant upon the acquisition of the lands of the company, and having been so recognized by the purchasers, should be computed in the input of defendant under the sale contract, in calculating the proportion of common stock to which he is entitled.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. § 194; Dec. Dig. § 85.* 12 Va.-W. Va. Enc. Dig. 812.]

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

7. Corporations (§ 77*)—Resolution of Directors—Necessary Expense.—A resolution of the board of directors that a bill furnished by defendant for office rent and stenographers' hire should be approved and stock issued to him in satisfaction of the bill was satisfactory evidence that such expenses were proper expenses incident to the successful carrying out of the purposes of the corporation, and were within the obligation of defendant as to input of money to defray same if necessary at that time.

[Ed. Note.—For other cases, see Corporatons, Cent. Dig. §§ 210-212, 219, 243, 455; Dec. Dig. § 77.* 12 Va.-W. Va. Enc. Dig. 812.]

8. Corporations (§ 77*)—Contract to Pay Necessary Expenses.—An input made by defendant to satisfy outstanding obligations should be computed in the calculation of the proportion of common stock to which he is entitled, although funds were received by the corporation because of the exercise of an option subsequent to the input and before the obligations became payable, as he could not have known that the option would be exercised.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 210-212, 219-243, 455; Dec. Dig. § 77.* 12 Va.-W. Va. Enc. Dig. 812.]

Appeal from Law and Equity Court of City of Richmond.

Suit by Charles A. Holt's executors and another against W. M. Cary and others. From the decree, the named defendant appeals. Reversed.

Jas. E. Cannon and *S. A. Anderson,* both of Richmond, for appellant.

J. M. Perry, of Staunton, for appellees.

VIRGINIA RY. & POWER CO. *v.* HILL.

Jan. 11, 1917.

[91 S. E. 194.]

1. Trial (§ 295 (6)*)—Instructions—Construction as a Whole.—Where plaintiff, riding in a taxicab, was injured by collision with street car at crossing where taxi had the right of way, the evidence being conflicting as to whether motorman or chauffeur was guilty of negligence causing the accident, an instruction that the street railway company would be liable if their motorman was guilty of negligence, which was the proximate cause of the accident, even though the chauffeur was also negligent, was proper, where the whole charge correctly submitted the question of whether one or both were guilty of negligence which was the proximate cause.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 709; Dec. Dig. § 295 (6).* 7 Va.-W. Va. Enc. Dig. 743.]

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.